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Paper No. 5

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SEP 16 2002

**OFFICE OF PETITIONS**

In re Application of	:	
Dan Raphaeli, et al.	:	
Application No. 09/883,589	:	DECISION ON PETITION
Filed: June 18, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 2681/OJ490	:	

This is a decision on the petition filed August 12, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(f)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

This petition lacks item (1) above.

Petitioner filed the present petition because the instant nonprovisional application, allegedly, is the subject of an application filed in a foreign country. The U. S. Patent and Trademark Office (Office) was not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. However, the date of the foreign filing has not been established and such a date is required to make a proper decision on petition. Therefore, it cannot be determined if this application is, in fact,

abandoned and if the present petition is necessary. Accordingly, petitioner must provide the date of the foreign filing to the Office.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of December 26, 2002 accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Express Mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By First Class Mail: United States Patent and Trademark Office  
P. O. Box 2327, Mail Stop DAC  
Arlington, VA 22202

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.



Frances M. Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Attachment: Corrected Filing Receipt

cc: Howard Zaretsky  
Zaretsky and Associates PC  
8753 W. Runion Drive  
Peoria, AZ 85382-6412